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HOUSE BILL 1987 By
Buck

SENATE BILL 2520
By Haynes

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 50, relative to enforcement of penalties for violations of the Occupational Safety and Health Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-3-408, is amended by designating the existing language of the section as subsection (a) and adding the following as a new subsection (b):

(b) After a final order has been entered pursuant to Sections 50-3-307 or 50-3-407, the attorney general and reporter shall be responsible for the civil enforcement and collection of assessed penalties on behalf of the commissioner of labor.

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 3, is amended by deleting Part 8 in its entirety.

SECTION 3. Tennessee Code Annotated, Section 4-29-222, is amended by deleting subdivision (a)(3) and by redesignating subsequent items accordingly.

SECTION 4. (a) Tennessee Code Annotated, Section 4-29-217(a), is amended by adding the following as a new subdivision to be appropriately designated:

() Occupational safety and health review commission, created by Section 50-3-801;

(b) Notwithstanding the provisions of Tennessee Code Annotated, Section 4-29-112, the occupational safety and health review commission shall terminate on June 30, 1996.

SECTION 5. Tennessee Code Annotated, Section 50-3-102(b)(3), is amended by inserting the language “and” between the language “business,” and “giving consideration” and by deleting the following language “and by creating an occupational safety and health review commission for carrying out adjudicatory functions under this chapter”.

SECTION 6. Tennessee Code Annotated, Section 50-3-103, is amended by deleting item (1) and by redesignating subsequent items accordingly.

SECTION 7. Tennessee Code Annotated, Section 50-3-307(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) (1) At any time within twenty (20) days after receipt of such citation, an employer or affected employee (or group of employees or their representative) may advise the commissioner of objections to the terms and conditions of the citation.

(2) Upon receipt of such objections, the commissioner shall seek a contested case hearing pursuant to Title 4, Chapter 5, Part 3. The attorney general and reporter shall represent the commissioner of labor in any such hearing.

(3) The administrative law judge shall thereafter issue an order affirming, modifying or vacating the citation.

(4) Such order shall become final thirty (30) days after its issuance, unless within such period judicial review of such order has been sought pursuant to Section 4-5-322.

SECTION 8. Tennessee Code Annotated, Section 50-3-407, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Penalties provided for by §§ 50-3-402 - 50-3-408 shall be imposed in the following manner: whenever the commissioner of labor has determined that such a penalty should be assessed against an employer, the commissioner shall issue a written notification to the employer by certified mail, stating the amount of the penalty to be assessed, the reason therefor (which may be done by reference to citations issued prior to or simultaneously with such notification), and informing the employer of the employer's right

to seek a contested case hearing pursuant to Tennessee Code Annotated, Title 4, Chapter 5, Part 3.

(b) If, within twenty (20) days from the receipt of notification, the employer fails to notify the commissioner that the employer intends to contest the imposition of such penalty, the assessment of penalty as stated in the notification shall be deemed a final order of the commissioner, and shall not be subject to further review.

(c) (1) If an employer notifies the commissioner within twenty (20) days of receipt of notification of a penalty that the employer intends to contest such penalty, the commissioner shall seek a contested case hearing pursuant to Title 4, Chapter 5, Part 3. The attorney general and reporter shall represent the commissioner of labor in any such hearing.

(2) The administrative law judge shall thereafter issue an order, based on findings of fact, affirming, modifying or vacating the commissioner's citation or assessment of penalty.

(3) Such order shall become final thirty (30) days after its issuance, unless within such period judicial review of such order has been sought pursuant to § 4-5-322.

SECTION 9. This act shall take effect July 1, 1996, the public welfare requiring it.

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